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RIGHTS OF THE CHILD

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[6 March 1997]

Arbitrary Detention and Police Violence against Street Children

1. Millions of children live or work on the streets of the world's urban centres. Since 1994, Human Rights Watch has conducted fact-finding missions and/or issued reports on the treatment of street children in Brazil, Colombia, the Sudan, India, Bulgaria, Guatemala and Kenya. We have concluded that street children are particularly vulnerable to police violence, rising to the level of killings, and arbitrary detention. Street children are easy targets of abuse; they are young, small, poor, ignorant of their rights and live outside the protection of responsible adults.

2. While it is true that some street children are involved at times in petty theft, drug abuse and prostitution, police generally view all street children as criminals, or vagrants at best, who need to be removed from the streets either by constant harassment or by direct intervention. Police routinely round up street children for the purposes of cleaning up the streets or for criminal investigation. The attitude of police towards street children is sometimes disturbingly linked to underlying notions of social cleansing. This was carried to an extreme in the cases of Brazil and Colombia, where street children were actually killed in social cleansing campaigns, and in Bulgaria, where the Roma (Gypsy) ethnic identity of street children plays a significant role in their treatment.

3. Street children are routinely arrested, beaten, held in lock-ups under extremely harsh conditions for long periods of time, where they are further beaten and held without access to legal assistance. In addition, street children may suffer from other forms of abuse from police, such as extortion and sexual abuse, including rape. They may be forced to pay police in order to be left alone or to be released from custody. Girls may be forced to engage in sexual relations with police.

4. Understandably, children who have suffered from such abuses are reluctant to complain about their treatment to the police, and most abuses go unreported and undetected. Even in the most egregious cases, where street children allegedly have been killed by the police, law enforcement has been slow in bringing the involved parties to justice, if ever.

5. If and when detained street children are brought before the judicial authorities, they are often remanded to detention centres where again they may be held for excessively long periods under severe conditions, before eventually being confined in correctional institutions. In addition to police violence, we are concerned about the treatment of street children within the juvenile justice system and the tendency of street children to comprise a significant portion of the population in juvenile correctional facilities.

6. We urge the Commission on Human Rights to:

Request the Special Rapporteur on the question of torture to give high priority to investigating reports of police violence against street children; and to include in any investigation conducted in any country, to the extent possible, visits to places of detention where children may be held;

Request the Working Group on Arbitrary Detention to give high priority to investigating reports of illegal and arbitrary detention of street children; and to include in any investigation conducted in any country, to the extent possible, visits to places of detention where children may be held; and

Urge all Governments of countries where reports of illegal detention or police violence against street children exist to: take prompt measures to train the police, and all persons involved in the administration of juvenile justice, in human rights principles and practices, with special emphasis on those relevant to the protection and care of children; and establish independent mechanisms for registering children's complaints against police, and promptly investigate them, and discipline and prosecute police who have been found to have violated children's rights.

Bonded child labour

7. Millions of children work as bonded child labourers in virtual slavery throughout the world. In India alone, there are an estimated 15 million. These children work as many as 16 hours a day, 6 (sometimes 7) days a week, in dreadful and often dangerous conditions, often physically abused, deprived of an education and a normal childhood.

8. "Bonded child labour" refers to children working in servitude in order to pay off a debt incurred usually by their relatives or guardians, typically a parent. In India these debts range on average from 500 rupees to 7,500 rupees (between approximately US$ 15 and 220). The children work long hours over many years in an attempt to pay off their debts. Due to the astronomically high rates of interest charged and the abysmally low wages paid, they rarely succeed, and sometimes find themselves and family members trapped in "generational bonded labour". As they reach maturity, some may be released by the employer in favour of a newly-indebted and younger child. Others will pass the debt on, intact or even higher, to a younger sibling or their own children.

9. In The Small Hands of Slavery: Bonded Child Labour in India, issued in October 1996, Human Rights Watch documented the use of bonded child labour in six industries: the hand-made cigarette (beedi) industry in the State of Tamil Nadu; the silver manufacturing industry in Tamil Nadu; the silk industry in Karnataka, Uttar Pradesh and Tamil Nadu; the manufacture of synthetic diamonds in Tamil Nadu; the export-oriented carpet weaving industry of Uttar Pradesh; and the footwear manufacturing industry in Bombay. An estimated 85 per cent of bonded child labourers work in agriculture, where peasant workers are routinely purchased and sold by landlords.

10. All of these children suffer from violations of their internationally recognized human rights, including the right not to be held in slavery or servitude, the right to liberty of movement and the right to freedom of association. For decades, the Government of India failed to punish employers who held labourers in bondage or to make an adequate effort to meet obligations under its own and international law to identify and rehabilitate bonded child labourers. By the end of 1996, with intense pressure at home and abroad, the climate began to change. The Indian Supreme Court ordered important steps towards the identification and rehabilitation of both bonded and child labourers, holding employers responsible for illegal use of child workers, and the compulsory education of working children. Much, however, still needs to be done.

11. We call on the Commission on Human Rights to encourage the Government of India to continue efforts to:

Fully implement its own laws banning bonded labour, including articles 21 and 23 of the Indian Constitution, the Bonded Labour (Abolition) Act of 1976 and other laws;

Pursue efforts to guarantee free, compulsory and quality public education for children up to the age of 14, as required by the Indian Constitution;

Follow through with Supreme Court efforts to press Indian States and districts to constitute and oversee bonded labour vigilance committees, as required by the Bonded Labour (Abolition) Act;

Systematically prosecute employers who have held workers in bondage.

12. We also call on the Commission on Human Rights to urge the Working Group on Contemporary Forms of Slavery to examine India's compliance with international laws and standards outlawing bonded labour and, as a step toward this end, to undertake a fact-finding mission to India and make recommendations designed to eliminate bonded labour.

The Panchen Lama

13. In May 1995 the Dalai Lama of Tibet announced that a six-year-old boy living in northern Tibet, was the reincarnation of the tenth Panchen Lama, who at his death in 1989 was the most significant of the Tibetan leaders to have remained in Tibet after the Dalai Lama's flight to India in 1959. The Government of China denounced the identification of Gendun Choekyi Nyima as the eleventh Panchen Lama and instead identified another six-year-old Tibetan boy, Gyaltsen Norbu.

14. Human Rights Watch is deeply concerned over the safety and well-being of both boys. Gendun Choekyi Nyima has not been seen in public since May 1995. In May 1996, responding to questions put to the Government of China by the Committee on the Rights of the Child, Ambassador Wu Jianmin stated, without revealing the boy's whereabouts, that Gendun Choekyi Nyima had been placed under government protection, allegedly in response to his parents' request. To our knowledge, the Government has not responded to the Committee's request that a United Nations representative be allowed to visit the boy. The boy appointed by the Chinese authorities, Gyaltsen Norbu, has been required to appear in public and to make political statements supporting the State. He is believed to reside in Beijing, under close government supervision.

15. We urge the Commission on Human Rights to:

Request the Government of China to release Gendun Choekyi Nyima and his family; and, as steps towards that end,

Request the Government to state publicly where Gendun Choekyi Nyima is being held and to remove all restrictions on freedom of movement and expression for him; and

Send a representative to meet with Gendun Choekyi Nyima and his family, and investigate the conditions under which the boy is being held;

Urge the Government to respect the rights guaranteed to both boys in the Convention on the Rights of the Child, which China ratified in 1992. These include the rights: to enjoy their own culture and to profess and practise their own religion; to an education directed to the development of respect for their own cultural identity and values; to be free from unlawful interference in their home and family, and from unlawful attacks on their honour and reputation; and to be free from all forms of exploitation prejudicial to any aspects of their welfare.